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April 2, 2020

Via Electronic Mail

Laura Flahive Wu  
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**RE: Response to Request Regarding Priority Deponents**

Dear Counsel:

I write on behalf of the Cabell County Commission in response to your letter from March 27<sup>th</sup>. As an overarching matter, I am notifying you that Cabell County has substantially completed document productions for all custodians and departments with the exception of the following custodians: (1) Gordon Merry and (2) Irv Johnson.

The remaining documents for Gordon Merry consist of a small number of hard copy documents, which are currently being reviewed and will be produced in short order. We are working to coordinate the collection of ESI for Irv Johnson and expect that collection to be completed fairly quickly as well. Otherwise, we only have a few hard drives of data left that are being processed for Cabell County, which will also be produced in the next week or two. As you have requested, we can also confirm the departmental productions are substantially complete for the Cabell County Sheriff's Office and Cabell County EMS.

We do also wish to specifically clarify some representations you have made concerning productions for certain custodians identified in your letter. As to Chuck Zerkle, Jr. we have produced custodial documents both for him and for his assistant Rosann Brooks, as we became aware that Ms. Brooks periodically wrote and received email communications and drafted or maintained other documents on his behalf. Additionally, the volume of custodial documents produced for Doug Ferguson, Nancy Cartmill, and Bob Bailey do not match the numbers you have indicated in your letter.

**Exhibit B**

Our records indicate that a total of 51 custodial documents have been produced for Doug Ferguson. In addition to the documents listed in your letter for Mr. Ferguson, our records also reflect the following custodial documents have been produced for him:

CCCOMM\_0015406  
CCCOMM\_0040478  
CCCOMM\_0015407  
CCCOMM\_0015409  
CCCOMM\_0015410  
CCCOMM\_0015456  
CCCOMM\_0015458  
CCCOMM\_0015460  
CCCOMM\_0015463  
CCCOMM\_0015464  
CCCOMM\_0054268  
CCCOMM\_0040483  
CCCOMM\_0015465  
CCCOMM\_0015468  
CCCOMM\_0015469  
CCCOMM\_0015474  
CCCOMM\_0015475  
CCCOMM\_0034799  
CCCOMM\_0015477  
CCCOMM\_0040489  
CCCOMM\_0015480  
CCCOMM\_0015481  
CCCOMM\_0015483  
CCCOMM\_0040495  
CCCOMM\_0015484  
CCCOMM\_0015487  
CCCOMM\_0040500  
CCCOMM\_0040503  
CCCOMM\_0015490  
CCWVPD\_0011810

Our records indicate we have produced a total of 280 custodial documents for Nancy Cartmill, rather than the 253 referenced in your letter. The additional custodial documents are listed below for your convenience:

CCCOMM\_0044206  
CCCOMM\_0062055  
CCCOMM\_0020550  
CCCOMM\_0001593  
CCCOMM\_0001597  
CCCOMM\_0001598  
CCCOMM\_0001600

CCCOMM\_0020554  
CCCOMM\_0001601  
CCCOMM\_0001605  
CCCOMM\_0062059  
CCCOMM\_0020558  
CCCOMM\_0044215  
CCCOMM\_0062062  
CCCOMM\_0062064  
CCCOMM\_0001606  
CCCOMM\_0001609  
CCCOMM\_0062067  
CCCOMM\_0026638  
CCCOMM\_0026640  
CCCOMM\_0062071  
CCCOMM\_0062080  
CCCOMM\_0062085  
CCCOMM\_0062092  
CCCOMM\_0044216  
CCCOMM\_0062097  
CCCOMM\_0062101  
CCCOMM\_0052609

Our records indicate that we have produced 650 custodial documents for Bob Bailey, rather than the 582 referenced in your letter. The additional documents are listed below for your convenience:

CCCOMM\_0057615  
CCCOMM\_0057622  
CCCOMM\_0057626  
CCCOMM\_0057629  
CCCOMM\_0057636  
CCCOMM\_0057643  
CCCOMM\_0057651  
CCCOMM\_0057652  
CCCOMM\_0057659  
CCCOMM\_0057664  
CCCOMM\_0057670  
CCCOMM\_0057672  
CCCOMM\_0057678  
CCCOMM\_0057683  
CCCOMM\_0057684  
CCCOMM\_0057689  
CCCOMM\_0057692  
CCCOMM\_0057696  
CCCOMM\_0057702  
CCCOMM\_0057707  
CCCOMM\_0057709  
CCCOMM\_0057713

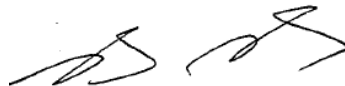
CCCOMM\_0057716  
CCCOMM\_0057719  
CCCOMM\_0057726  
CCCOMM\_0057735  
CCCOMM\_0057741  
CCCOMM\_0057742  
CCCOMM\_0057747  
CCCOMM\_0057750  
CCCOMM\_0057757  
CCCOMM\_0057760  
CCCOMM\_0057762  
CCCOMM\_0057764  
CCCOMM\_0057772  
CCCOMM\_0057783  
CCCOMM\_0057789  
CCCOMM\_0057795  
CCCOMM\_0057802  
CCCOMM\_0057805  
CCCOMM\_0057808  
CCCOMM\_0057811  
CCCOMM\_0057816  
CCCOMM\_0057819  
CCCOMM\_0057825  
CCCOMM\_0057830  
CCCOMM\_0057833  
CCCOMM\_0057836  
CCCOMM\_0057843  
CCCOMM\_0057851  
CCCOMM\_0057856  
CCCOMM\_0057861  
CCCOMM\_0057866  
CCCOMM\_0057872  
CCCOMM\_0057877  
CCCOMM\_0019908  
CCCOMM\_0034917  
CCCOMM\_0026513  
CCCOMM\_0026516  
CCCOMM\_0019911  
CCCOMM\_0034920  
CCCOMM\_0019920  
CCCOMM\_0019929  
CCCOMM\_0034923  
CCCOMM\_0019933  
CCCOMM\_0042066  
CCCOMM\_0057887  
CCCOMM\_0057890

As part of our due diligence protocol for ensuring completeness of collections in accordance with our discovery obligations, we inquired as to why certain custodial files presented as they did. In regard to your inquiry as to the volume of documents produced for Bob Bailey and Nancy Cartmill, we identified that as County Commissioners, rather than as full time employees of the County, they typically only use the workstation provided to them by the County on those few days they are present for Commission meetings. Similarly, we determined that they do not send or receive a large volume of emails using their cabellcounty.org email and limit use of that email to only those communications specifically related to County matters, most of which were found to not be responsive to issues germane to this litigation.

Regarding former Cabell County Sheriff Tom McComas, he has indicated to us that certain data of his was lost as the result of a malware attack in 2016. Should we uncover any additional data for Mr. McComas from the remaining hard drives we are currently processing, we will produce that data. Otherwise, we can confirm that the production for Mr. McComas is also substantially complete.

Finally, we once again confirm that no custodial files exist for Kim Wolfe. We can assure you that eDiscovery best practices were utilized to search for files for Mr. Wolfe, which included an inventory of every desk top computer and hard drive assigned to the Sheriff's Office. However, as you are well aware, Kim Wolfe left his position as Sheriff in 2009. Thus, the lack of custodial documents for him and other named custodians who have not been employed by the County for several years is completely understandable given that passage of time alone, as the County does not retain ESI for such an extended period of time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon L. Bogle', with a stylized, cursive-like flourish at the end.

Brandon L. Bogle  
Counsel for Plaintiff